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Date 5/8/14 By 

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8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2014-57

11 **ESTATE TERMITE; VICTORIA SALAS,**
12 **PRESIDENT**
13 **2537 W. Beverly Blvd., Suite 202**
Montebello, CA 90640
14 **Company Registration Certificate No. PR**
6260

A C C U S A T I O N

15 **FIDEL ESPINOZA**
16 **2537 W. Beverly Blvd., Suite 202**
Montebello, CA 90640
17 **Operator License No. OPR 12439**

18 **ROMEO V. TERRONES**
19 **2537 W. Beverly Blvd., Suite 203**
Montebello, CA 90640
Field Representative License No. FR 45244

20 **ANDRE BEAVERS**
21 **5715 E. Beverly Blvd.**
Los Angeles, CA 90022
22 **Operator License No. OPR 8916**

23 **ANGELO TERRONES**
24 **2537 W. Beverly Blvd., Suite 204**
Montebello, CA 90640
25 **Operator License No. OPR 12060**
Field Representative License No. FR 39379

26 Respondents.
27

28 Complainant alleges:

PARTIES

1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs.

2. On or about March 29, 2011, the Structural Pest Control Board issued Company Registration Certificate Number PR 6260 to Estate Termite; Victoria Salas; Fidel Espinoza; (Respondent Estate Termite). The Company Registration Certificate was in full force and effect at all times relevant to the charges brought herein.

3. On or about November 2, 2012, the Structural Pest Control Board issued Operator License Number OPR 12439 to Fidel Espinoza (Respondent Espinoza). The Operator License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

4. On or about February 26, 2010, the Structural Pest Control Board issued Field Representative License Number FR 45244 to Romeo V. Terrones (Respondent Romeo Terrones). The Field Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

5. On or about March 2, 1992, the Structural Pest Control Board issued Operator License Number OPR 8916 to Andre Beavers (Respondent Beavers). The Operator License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

6. On or about July 9, 2010, the Structural Pest Control Board issued Operator License Number OPR 12060 to Angelo Terrones (Respondent Angelo Terrones). The Operator License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

7. On or about November 18, 2005, the Structural Pest Control Board issued Field Representative License Number FR 39379 to Angelo Terrones (Respondent Angelo Terrones). The Field Representative License was in full force and effect at all time relevant to the charges brought herein and will expire on June 30, 2014, unless renewed.

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1 reports or copies thereof shall be submitted to the board upon request within two business days.

2 The following shall be set forth in the report:

3 (1) The date of the inspection and the name of the licensed field representative or operator
4 making the inspection.

5 (2) The name and address of the person or firm ordering the report.

6 (3) The name and address of any person who is a party in interest.

7 (4) The address or location of the property.

8 (5) A general description of the building or premises inspected.

9 (6) A foundation diagram or sketch of the structure or structures or portions of the
10 structure or structures inspected, indicating thereon the approximate location of any infested or
11 infected areas evident, and the parts of the structure where conditions that would ordinarily subject
12 those parts to attack by wood destroying pests or organisms exist.

13 (7) Information regarding the substructure, foundation walls and footings, porches, patios
14 and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias,
15 exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack
16 by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or
17 infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive
18 moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

19 (8) One of the following statements, as appropriate, printed in bold type: (A) The exterior
20 surface of the roof was not inspected. If you want the water tightness of the roof determined, you
21 should contact a roofing contractor who is licensed by the Contractors' State License Board.

22 "(B) The exterior surface of the roof was inspected to determine whether or not wood
23 destroying pests or organisms are present.

24 (9) Indication or description of any areas that are inaccessible or not inspected with
25 recommendation for further inspection if practicable. If, after the report has been made in
26 compliance with this section, authority is given later to open inaccessible areas, a supplemental
27 report on conditions in these areas shall be made.

28 (10) Recommendations for corrective measures.

1 (11) Information regarding the pesticide or pesticides to be used for their control as set
2 forth in subdivision (a) of Section 8538.

3 (12) The inspection report shall clearly disclose that if requested by the person ordering the
4 original report, a reinspection of the structure will be performed if an estimate or bid for making
5 repairs was given with the original inspection report, or thereafter.

6 (13) The inspection report shall contain the following statement, printed in boldface type:

7 "NOTICE: Reports on this structure prepared by various registered companies should list
8 the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However,
9 recommendations to correct these findings may vary from company to company. You have a right
10 to seek a second opinion from another company." An estimate or bid for repairs shall be given
11 separately allocating the costs to perform each and every recommendation for corrective measures
12 as specified in subdivision (c) with the original inspection report if the person who ordered the
13 original inspection report so requests, and if the registered company is regularly in the business of
14 performing corrective measures.

15 "If no estimate or bid was given with the original inspection report, or thereafter, then the
16 registered company shall not be required to perform a reinspection.

17 A reinspection shall be an inspection of those items previously listed on an original report to
18 determine if the recommendations have been completed. Each reinspection shall be reported on an
19 original inspection report form and shall be labeled "Reinspection" in capital letters by rubber
20 stamp or typewritten. Each reinspection shall also identify the original report by date.

21 'After four months from an original inspection, all inspections shall be original inspections
22 and not reinspections.

23 "Any reinspection shall be performed for not more than the price of the registered company's
24 original inspection price and shall be completed within 10 working days after a reinspection has
25 been ordered.

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27 10. Section 8518 of the Code states:
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1 When a registered company completes work under a contract, it shall prepare, on a form
2 prescribed by the board, a notice of work completed and not completed, and shall furnish that
3 notice to the owner of the property or the owner's agent within 10 working days after completing
4 the work. The notice shall include a statement of the cost of the completed work and estimated
5 cost of work not completed.

6 The address of each property inspected or upon which work was completed shall be
7 reported on a form prescribed by the board and shall be filed with the board no later than 10
8 working days after completed work.

9 Every property upon which work is completed shall be assessed a filing fee pursuant to
10 Section 8674.

11 Failure of a registered company to report and file with the board the address of any property
12 upon which work was completed pursuant to subdivision (b) of Section 8516 or Section 8518 is
13 grounds for disciplinary action and shall subject the registered company to a fine of not more than
14 two thousand five hundred dollars (\$2,500).

15 The registered company shall retain for three years all original notices of work completed,
16 work not completed, and activity forms.

17 Notices of work completed and not completed shall be made available for inspection and
18 reproduction to the executive officer of the board or his or her duly authorized representative
19 during business hours. Original notices of work completed or not completed or copies thereof shall
20 be submitted to the board upon request within two business days.

21 11. Section 8571 of the Code states:

22 If the licensed operator who is designated as the qualifying manager for a registered
23 company ceases for any reason whatsoever to be connected with the company, the company shall
24 notify the registrar in writing within 10 days from such cessation. If the notice is given the
25 registration shall remain in force for a reasonable length of time, to be determined by rules of the
26 board, during which period the company must submit to the registrar in writing the name of
27 another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has
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1 ceased to be connected with it, and who shall qualify as such within the time allowed by rules and
2 regulations of the board.

3 If the company fails to notify the registrar within the 10-day period, or fails to replace with a
4 qualifying manager within the period fixed by the regulations of the board, at the end of the period
5 the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of
6 an affidavit, executed by a representative of the company, and filed with the registrar, to the effect
7 that the qualifying manager who ceased to be connected with the company has been replaced by
8 another operator who is authorized by this chapter to act in such capacity, and that such operator
9 has not had his or her license suspended or revoked or that he or she has not been connected with
10 a company which has had its registration suspended or revoked.

11 12. Section 8610 of the Code states:

12 (a) Every company that engages in the practice of structural pest control, as a sole
13 proprietorship, partnership, corporation, or other organization or any combination thereof, shall be
14 registered with the Structural Pest Control Board. Each application for a company registration
15 shall include the name of the company's owner if it is a sole proprietorship, the names of the
16 partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more
17 ownership interest, if it is a corporation, and the address of the company's principal office in this
18 state.

19 (b)(1) A company registration shall not be issued to an applicant that has an officer, director,
20 qualifying manager, responsible managing employee, or an individual who otherwise exercises
21 dominion or control over the company, whose license or registration is revoked or suspended at
22 the time of the application as the result of disciplinary action pursuant to this chapter.

23 (2) A company registration shall not be issued to an applicant that has an officer, director,
24 qualifying manager, responsible managing employee, or an individual who otherwise exercises
25 dominion or control over the company, who owns or has owned in the past more than a 10 percent
26 interest in another sole proprietorship, partnership, corporation, or other organization that has its
27 license or registration revoked or suspended at the time of the application as the result of
28 disciplinary action pursuant to this chapter.

1 (c) Each registered company shall designate an individual or individuals who hold an
2 operator's license to act as its qualifying manager or managers. The qualifying manager or
3 managers must be licensed in each branch of pest control in which the company engages in
4 business. The designated qualifying manager or managers shall supervise the daily business of the
5 company and shall be available to supervise and assist all employees of the company, in accordance
6 with regulations which the board may establish.

7 13. Section 8620 of the Business and Professions Code (Code) provides, in pertinent part,
8 that the Board may suspend or revoke a license when it finds that the holder, while a licensee or
9 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
10 of a suspension may assess a civil penalty.

11 14. Section 8622 of the Code states:

12 When a complaint is accepted for investigation of a registered company, the board, through
13 an authorized representative, may inspect any or all properties on which a report has been issued
14 pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by
15 the registered company to determine compliance with the provisions of this chapter and the rules
16 and regulations issued thereunder. If the board determines the property or properties are not in
17 compliance, a notice shall be sent to the registered company so stating. The registered company
18 shall have 30 days from the receipt of the notice to bring such property into compliance, and it
19 shall submit a new original report or completion notice or both and an inspection fee of not more
20 than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent
21 reinspection is necessary, pursuant to the board's review of the new original report or notice or
22 both, a commensurate reinspection fee shall also be charged. If the board's authorized
23 representative makes no determination or determines the property is in compliance, no inspection
24 fee shall be charged.

25
26 The notice sent to the registered company shall inform the registered company that if it
27 desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written
28 notice to the board within 20 days of receipt of the notice of noncompliance from the board.

1 Where a hearing is not requested pursuant to this section, payment of any assessment shall not
2 constitute an admission of any noncompliance charged.

3 15. Section 8624 of the Code states:

4 If the board suspends or revokes an operator's license and one or more branch offices are
5 registered under the name of the operator, the suspension or revocation may be applied to each
6 branch office.

7 If the operator is the qualifying manager, a partner, responsible officer, or owner of a
8 registered structural pest control company, the suspension or revocation may be applied to the
9 company registration.

10 The performance by any partnership, corporation, firm, association, or registered company
11 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for
12 disciplinary action against any licensee who, at the time the act or omission occurred, was the
13 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,
14 association, or registered company whether or not he or she had knowledge of, or participated in,
15 the prohibited act or omission.

16 16. Section 8625 of the Code states:

17 "The lapsing or suspension of a license or company registration by operation of law or by
18 order or decision of the board or a court of law, or the voluntary surrender of a license or
19 company registration shall not deprive the board of jurisdiction to proceed with any investigation
20 of or action or disciplinary proceeding against such licensee or company, or to render a decision
21 suspending or revoking such license or registration."

22 17. Section 8638 of the Code states that "[f]ailure on the part of a registered company to
23 complete any operation or construction repairs for the price stated in the contract for such
24 operation or construction repairs or in any modification of such contract is a ground for
25 disciplinary action."

26 18. Section 8639 of the Code states:

27 "Aiding or abetting an unlicensed individual or unregistered company to evade the provisions
28 of this chapter [the Structural Pest Control Act] or knowingly combining or conspiring with an

1 unlicensed individual or unregistered company, or allowing one's license or company registration
2 to be used by an unlicensed individual or unregistered company, or acting as agent or partner or
3 associate, or otherwise, of an unlicensed individual or unregistered company to evade the
4 provisions of this chapter is a ground for disciplinary action."

5 19. Section 8641 of the Code states:

6 "Failure to comply with the provisions of this chapter, or any rule or regulation adopted by
7 the board, or the furnishing of a report of inspection without the making of a bona fide inspection
8 of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed
9 prior to the completion of the work specified in the contract, is a ground for disciplinary action."

10 20. Section 8642 of the Code states that "[t]he commission of any grossly negligent or
11 fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a
12 registered company is a ground for disciplinary action."

13 21. Section 8644 of the Code states:

14 Fraud or misrepresentation, after inspection, by any licensee or registered company engaged
15 in pest control work of any infestation or infection of wood-destroying pests or organisms found in
16 property or structures, or respecting any conditions of the structure that would ordinarily subject
17 structures to attack by wood-destroying pests or organisms, whether or not a report was made
18 pursuant to Sections 8516 and 8517 of this code, is a ground for disciplinary action.

19 22. Section 8650 of the Code states:

20 "Acting in the capacity of a licensee or registered company under any of the licenses or
21 registrations issued hereunder except:

22 "(a) In the name of the licensee or registered company as set forth upon the license or
23 registration, or

24 "(b) At the address and location or place or places of business as licensed or registered or as
25 later changed as provided in this chapter is a ground for disciplinary action."

26 23. Section 8651 of the Code states:

27 The performing or soliciting of structural pest control work, the inspecting for structural or
28 household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of

1 eliminating, exterminating, controlling, or preventing structural pests in branches of pest control
2 other than those for which the operator, field representative, or applicator is licensed or the
3 company is registered is a ground for disciplinary action.

4 24. California Code of Regulations, title 16, section 1918 states:

5 "Supervise" as used in Business and Professions Code Sections 8506.2, 8610 and 8611
6 means the oversight, direction, control, and inspection of the daily business of the company and its
7 employees, and the availability to observe, assist, and instruct company employees, as needed to
8 secure full compliance with all laws and regulations governing structural pest control.

9 In cases of ownership of more than one registered company by the same sole owner,
10 corporation or partnership where the qualifying manager or managers cannot supervise each
11 registered company because of the location of the companies, the qualifying manager or managers
12 may designate an individual or individuals licensed as an operator or as a field representative in the
13 branch or branches of business being conducted to supervise the company. This designated
14 supervisor or supervisors must be under the direct supervision of the qualifying manager or
15 managers. Any such designation of supervisors does not relieve the qualifying manager or
16 managers of responsibility to supervise as required in sections 8506.2 and 8610.

17 25. California Code of Regulations, title 16, section 1937.14, states:

18 "All work completed by licensees or registered companies shall be done within the specific
19 requirements of any plans or specifications and shall meet accepted trade standards for good and
20 workmanlike construction in any material respect, and shall comply with provisions of Section
21 2516(c)(1), (2), (4) and (6) of Title 24, California Code of Regulations."

22 26. California Code of Regulations, title 16, section 1990, states:

23 "(a) All reports shall be completed as prescribed by the board. Copies filed with the board
24 shall be clear and legible. All reports must supply the information required by Section 8516 of the
25 Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of
26 the Code, and shall contain or describe the following:

27 (1) Structural pest control license number of the person making the inspection.

28 (2) Signature of the Branch 3 licensee who made the inspection.

1 (3) Infestations, infections or evidence thereof.

2 (4) Wood members found to be damaged by wood destroying pests or
3 organisms.

4 "(b) Conditions usually deemed likely to lead to infestation or infection include, but are not
5 limited to:

6 (1) Faulty Grade Level. A faulty grade level exists when the top of any
7 foundation is even with or below the adjacent earth. The existing earth level shall be
8 considered grade.

9 (2) Inaccessible subareas or portions thereof and areas where there is less than
10 12 inches clear space between the bottom of the floor joists and the unimproved
11 ground area.

12 (3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size
13 that can be raked or larger. Stumps and wood imbedded in footings in earth contact
14 shall be reported.

15 (4) Earth-wood contacts.

16 (5) Commonly controllable moisture conditions which would foster the growth
17 of a fungus infection materially damaging to woodwork.

18 "(c) When an infestation of carpenter ants or carpenter bees is found in a structure, control
19 measures may be applied by companies holding a Branch 2 or Branch 3 registration certificate. If a
20 Branch 3 licensee discovers an infestation or evidence of carpenter ant or carpenter bee infestation
21 while performing an inspection pursuant to section 8516 of the code, he or she shall report his or
22 her findings and make recommendations for controlling the infestation.

23 "(d) Even though the licensee may consider the following areas inaccessible for purposes of
24 inspection, the licensee must state specifically which of these areas or any other areas were not
25 inspected and why the inspection of these areas is not practical: furnished interiors; inaccessible
26 attics or portions thereof; the interior of hollow walls; spaces between a floor or porch deck and
27 the ceiling or soffit below; stall showers over finished ceilings; such structural segments as porte
28 cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without

1 defacing or tearing out lumber, masonry or finished work; built-in cabinet work; floors beneath
2 coverings, areas where storage conditions or locks make inspection impracticable.

3 "(e) Information regarding all accessible areas of the structure including but not limited to
4 the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents,
5 abutments, stucco walls, columns, attached structures or other parts of a structure normally
6 subject to attack by wood-destroying pests or organisms.

7 "(f) The following language shall appear just prior to the first finding/recommendation on
8 each separated report:

9 "This is a separated report which is defined as Section I/Section II conditions
10 evident on the date of the inspection. Section I contains items where there is visible
11 evidence of active infestation, infection or conditions that have resulted in or from
12 infestation or infection. Section II items are conditions deemed likely to lead to
13 infestation or infection but where no visible evidence of such was found. Further
14 inspection items are defined as recommendations to inspect area(s) which during the
15 original inspection did not allow the inspector access to complete the inspection and
16 cannot be defined as Section I or Section II."

17 "(g) Information must be reported regarding any wooden deck, wooden stairs or wooden
18 landing in exterior exposure attached to or touching the structure being inspected. Portions of such
19 structure that are not available for visual inspection must be designated as inaccessible."

20 27. California Code of Regulations, title 16, section 1991, states:

21 "(a) Recommendations for corrective measures for the conditions found shall be made as
22 required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform
23 with the provisions of Title 24 of the California Code of Regulations and any other applicable local
24 building code, and shall accomplish the following:

25 (1) Comply with the provisions of section 2516(c)(1) of Title 24 of the
26 California Code of Regulations.

27 (2) Remove from the subarea all excessive cellulose debris in earth contact. This
28 excludes shavings or other cellulose too small to be raked or stored goods not in earth

1 contact. Stumps and wood imbedded in footings in earth contact shall be treated if
2 removal is impractical.

3 (3) When evidence of moisture, infestations or infections exists as a result of
4 faulty grade levels, earth fill planters or loose stucco, a recommendation shall be made
5 to correct the condition. Any method of controlling infestations arising from these
6 conditions is considered adequate if the infestation is controlled.

7 (4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the
8 California Code of Regulations (Effective July 1992).

9 (5) Structural members which appear to be structurally weakened by
10 wood-destroying pests to the point where they no longer serve their intended purpose
11 shall be replaced or reinforced. Structural members which are structurally weakened
12 by fungus to the point where they no longer serve their intended purpose shall be
13 removed or, if feasible, may remain in place if another structural member is installed
14 adjacent to it to perform the same function, if both members are dry (below 20%
15 moisture content), and if the excessive moisture condition responsible for the fungus
16 damage is corrected. Structural members which appear to have only surface fungus
17 damage may be chemically treated and/or left as is if, in the opinion of the inspector,
18 the structural member will continue to perform its originally intended function and if
19 correcting the excessive moisture condition will stop the further expansion of the
20 fungus.

21 (6) Comply with the provisions of section 2516(c)(6) of Title 24 of the
22 California Code of Regulations.

23 (7) Comply with the provisions of section 2516(c)(4) of Title 24 of the
24 California Code of Regulations.

25 (8) Exterminate all reported wood-destroying pests. Such extermination shall
26 not be considered repair under section 8516(b)(12) of the code. If evidence indicates
27 that wood-destroying pests extend into an inaccessible area(s), recommendation shall
28 be made to either:

1 (A) enclose the structure for an all encompassing treatment utilizing materials
2 listed in Section 8505.1 of the code, or

3 (B) use another all encompassing method of treatment which exterminates the
4 infestation of the structure, or

5 (C) locally treat by any or all of the following:

6 1. exposing the infested area(s) for local treatment,

7 2. removing the infested wood,

8 3. using another method of treatment which exterminates the infestation. (If any
9 recommendation is made for local treatment, the report must contain the following
10 statement: "Local treatment is not intended to be an entire structure treatment method.
11 If infestations of wood-destroying pests extend or exist beyond the area(s) of local
12 treatment, they may not be exterminated.")

13 When a complete inspection is performed, a recommendation shall be made to
14 remove or cover all accessible pellets and frass of wood-destroying pests.

15 When a limited inspection is performed, the inspection report shall state that the
16 inspection is limited to the area(s) described and diagrammed. A recommendation shall
17 be made to remove or cover all accessible pellets and frass of wood-destroying pests in
18 the limited areas. The limited inspection report shall include a recommendation for
19 further inspection of the entire structure and that all accessible evidence of
20 wood-destroying pests be removed or covered.

21 (9) For the extermination of subterranean termite infestations, treat an infested
22 area under the structure when subterranean termite tubes are found connected to the
23 ground or when active infestations are found in the ground. Subterranean termite tubes
24 shall be removed where accessible, except where a licensee is using an above ground
25 termite bait station that requires the use of the termite tubes to be effective. Where a
26 licensee is using an above ground termite bait station that requires the use of termite
27 tubes to be effective, subterranean termite tubes can remain in place for the duration of
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1 the licensee's use of the termite bait stations. At the conclusion of the treatment, the
2 subterranean termite tubes shall be removed.

3 (10) Comply with the provisions of section 2516(c)(2) of Title 24 of the
4 California Code of Regulations.

5 (11) Correct any excessive moisture condition that is commonly controllable.
6 When there is reasonable evidence to believe a fungus infection exists in a concealed
7 wall or area, recommendations shall be made to open the wall or area.

8 (12) Repair a stall shower if it is found to leak when water tested for a minimum
9 of fifteen (15) minutes after the shower drain has been plugged and the base filled to
10 within one (1) inch of the top of the shower dam. Stall showers with no dam or less
11 than two (2) inches to the top of the dam are to be water tested by running water on
12 the unplugged shower base for a minimum of five (5) minutes. Showers over finished
13 ceilings must be inspected but need not be water tested. If water stains are evident on
14 the ceiling, recommendations shall be made for further inspection and testing.

15 "(b) Preconstruction application of termiticide for protection from subterranean termites
16 shall not be made at less than the manufacturer's label specifications.

17 "(c) If in the opinion of the inspector a building permit is required, it must be noted on the
18 wood destroying pests and organisms inspection report (Form No. 43M-41 as specified in section
19 1996 of the California Code of Regulations)."

20 28. California Code of Regulations, title 16, section 1996.3 states:

21 a) The address of each property inspected and/or upon which work was completed shall be
22 reported on a form prescribed by the Board and designated as the WDO Inspection and
23 Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section.
24 This form shall be prepared by each registered company and shall comply with all of the
25 requirements pursuant to Section 8516(b), and 8518.

26 (b) The form shall contain the following information for each property inspected and/or upon
27 which work was completed.

28 (1) Company Name

1 (2) Company registration number

2 (3) Branch office registration number (when a branch office issues an inspection report or
3 notice of work completed

4 (4) Date of Activity

5 (5) Address of property inspected or upon which work was completed, including zip code

6 (6) Activity Code

7 (7) License number of licensee performing the inspection

8 (c) Failure of a registered company to report and file with the Board the address of any
9 property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are
10 grounds for disciplinary action and subject to a fine of not more than two thousand five hundred
11 dollars (\$ 2,500).

12 29. Section 118, subdivision (b), of the Code provides that the
13 suspension/expiration/surrender/cancellation of a license shall not deprive the
14 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
15 within which the license may be renewed, restored, reissued or reinstated.

16 30. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
20 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
21 included in a stipulated settlement.

22 31. Government Code section 11519, subdivision (d), states:

23 As used in subdivision (b), specified terms of probation may include an order of restitution.
24 Where restitution is ordered and paid pursuant to the provisions of this subdivision, the amount
25 paid shall be credited to any subsequent judgment in a civil action.

26 BACKGROUND

27 32. On or around June 18, 2013, two aspiring homeowners placed an offer on a residence
28 located at 12743 Darla Ave., Granada Hills that was accepted by the seller (hereinafter the

1 "Granada Hills Transaction). As part of the purchase agreement, the home was to undergo a
2 Wood Destroying Pest Inspection. The seller was to pay for Section 1 conditions described in the
3 inspection report, while the purchaser was to pay for conditions set forth in Section 2. The
4 inspection was purportedly conducted by Respondent Romeo Terrones on behalf of Respondent
5 Estate Termite. On June 26, 2013, Respondent Estate Termite submitted an inspection report that
6 contained three findings and recommendations in Section 1: drywood termites, drywood termite
7 damage, and dry rot damage, with an associated bid of \$2,000. There were no Section 2 findings
8 or recommendations. Respondents subsequently purported to complete the items set forth in
9 Section 1, were paid in full, and they issued a notice of completion indicating that they had
10 completed the job in full including a report of completion dated July 3, 2013.

11 33. On or around August 6, 2013, escrow closed and the aspiring homeowners became the
12 actual owners of the property (hereinafter "Homeowners"). Approximately three days later, the
13 homeowners found evidence that their property continued to have a termite problem. In addition
14 to notifying Respondent Estate Termite, the homeowners had the property re-inspected by several
15 different companies, all of which found that termite problems remained on the property. Bids to
16 correct the problem ranged in price up to \$12,500. Efforts to resolve the matter with Respondents
17 were unsuccessful, which led the homeowners to file a complaint with the Structural Pest Control
18 Board (Board).

19 34. A representative of the Board subsequently inspected the subject property as well as
20 the various reports submitted by Respondents and found that they committed numerous violations
21 of the Structural Pest Control Act during the course of their dealings with the homeowners. The
22 representative also determined that the actual inspection had been performed by unlicensed
23 individual(s) rather than a licensed field representative or operator and that they had inspected
24 many additional properties on behalf of Respondent Estate Termite as well.

25 35. On or around October 23, 2013, a Board representative inspected the property and
26 prepared a report of findings identifying several areas whereby Respondent Estate Termite's
27 inspection was not compliant. A copy of the report was sent to Respondent Estate Termite, who
28 failed to complete all of the deficient items.

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 36. Respondents Estate Termite, Beavers, and Romeo Terrones are subject to disciplinary
4 action under section 8642 and California Code of Regulations, title 16, section 1937.14 in that on
5 the Granada Hills transaction, during preparation of the June 26, 2013 inspection report and July
6 3, 2013 completion notice, they committed acts of gross negligence as follows. Complainant
7 refers to, and by reference incorporates, the allegations set forth above in paragraphs 32-35 as
8 though set forth fully.

9 a. Failed to report the decay fungi damage at the roof sheathing adjacent to the
10 replaced 4x12 beam.

11 b. Failed to report the decay fungi damage at the 2x4 attached fence blocking.

12 c. Failed to report the decay fungi damage at the support beams, roof sheathing
13 and support posts at the atrium perimeter.

14 d. Failed to report the evidence of an excessive moisture condition at the roof
15 sheathing adjacent to the atrium.

16 e. Failed to report the evidence of an excessive moisture condition at the garage
17 roof sheathing.

18 f. Failed to report drywood termites at the support beams and posts at the atrium
19 extending into inaccessible areas. The evidence indicates that the infestations are active and extend
20 into areas that are physically inaccessible for local chemical treatments.

21 g. Failed to report drywood termites at the exterior eaves adjacent to the fireplace
22 extending into inaccessible areas. The evidence indicates the infestations are active and extend into
23 areas that are physically inaccessible for local chemical treatments.

24 h. Failed to report drywood termite damage at the support beams, support posts at
25 the atrium and exterior eaves adjacent to the fireplace.

26 i. Failed to report the evidence of subterranean termites at the support beams and
27 posts at the atrium.

28 j. Failed to report the evidence of subterranean termites in the attached fence post.

- 1 k. Failed to report evidence of subterranean termites in the protruding deck post.
- 2 l. Failed to report the inaccessible areas at the wood deck and to make a
- 3 recommendation for further inspection.
- 4 m. Failed to report earth to wood contact at the attached fence post and the
- 5 protruding deck post.
- 6 n. Failed to make a proper finding and recommendation, regarding the reported
- 7 decay fungi damage at the "beam". The finding failed to identify the excessive moisture condition
- 8 responsible for infections, and the recommendations failed to include a recommendation to correct
- 9 the excessive moisture conditions responsible for the infections.
- 10 o. Failed to complete work in a good and workmanlike manner in accordance with
- 11 accepted trade standards with regards to the "beam" replacement completed at the front entry.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Improper Inspection Reports)

14 37. Respondents Estate Termite, Beavers, and Romeo Terrones are subject to disciplinary

15 action under section 8641, in that on the Granada Hills transaction, the report of inspection dated

16 June 26, 2013 and the completion notice dated July 3, 2013 failed to comply with provisions of the

17 Structural Pest Control Act as follows. Complainant refers to, and by reference incorporates, the

18 allegations set forth above in paragraphs 32-35 as though set forth fully.

19 a. **Section 8516, subdivision (b)(6)** for the reasons specified in paragraph 36,

20 subsections (a), (b), (c), (d), (e) (i) (j), (k), (l), (m), (n), and (o).

21 b. **Section 8516, subdivisions (b)(7)** for the reasons specified in paragraph 36,

22 subsections (a), (b), (c), (d), (e), (f), (g), (h), (i) (j), (k) (n) and (o).

23 c. **California Code of Regulations, title 16, section 1990, subdivision (a)(3)** for the

24 reasons specified in paragraph 28, subsections (f), (g), (i), (j), and (k).

25 d. **California Code of Regulations, title 16, section 1990, subdivision (a)(4)** for the

26 reasons specified in paragraph 28, subsections (a), (b), (c), (h), (l) and (m).

27 e. **California Code of Regulations, title 16, section 1990, subdivision (a)(5)** for the

28 reasons specified in paragraph 28, subsection (o).

1 f. California Code of Regulations, title 16, section 1990, subdivision (b)(5) for the
2 reasons specified in paragraph 36, subsection (d).

3 g. California Code of Regulations, title 16, section 1990, subdivision (b)(7) for the
4 reasons specified in paragraph 36, subsection (h).

5 h. California Code of Regulations, title 16, section 1990, subdivision (d) for the
6 reasons specified in paragraph 36, subsection (n).

7 i. California Code of Regulations, title 16, section 1990, subdivision (e) for the
8 reasons specified in paragraph 36, subsections (a), (b), (c), (d), (e) (f) (g) (h), (i) (j) (k), (n) (o),
9 (p).

10 j. California Code of Regulations, title 16, section 1991, subdivision (a)(11) for the
11 reasons specified in paragraph 36, subsection (n).

12 THIRD CAUSE FOR DISCIPLINE

13 (Improper Inspections)

14 38. Respondents Estate Termite, Beavers, and Romeo Terrones are subject to disciplinary
15 action under section 8641 in that with regards to the Granada Hills property, they submitted a
16 report of inspection dated June 26, 2013 and completion notice dated July 3, 2013 to the Board
17 without first performing a bona fide inspection of the property. Complainant refers to, and by
18 reference incorporates, the allegations set forth above in paragraphs 32-35 as though set forth
19 fully.

20
21 FOURTH CAUSE FOR DISCIPLINE

22 (Improper Inspection Reports)

23 39. Respondents Estate Termite, Beavers, and Romeo Terrones are subject to disciplinary
24 action under section 8641, in that with regards to the Granada Hills property, they submitted an
25 inspection report dated June 26, 2013 that failed to make proper findings and recommendations
26 regarding decay fungi damage in violation of Business and Professions Code section 8516,
27 subdivisions (b)(6), (b)(7), and (b)(10). Complainant refers to, and by reference incorporates, the
28 allegations set forth above in paragraphs 32-35 as though set forth fully.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Report of Findings)

3 40. Respondents Estate Termite, Beavers, and Romeo Terrones, and Espinoza are subject
4 to discipline pursuant to section 8622 in that they failed to comply with the Report of Findings
5 issued by the Board and which they received on or around October 31, 2013. Complainant refers
6 to, and by reference incorporates, the allegations set forth above in paragraphs 32-35 as though set
7 forth fully.

8 SIXTH CAUSE FOR DISCIPLINE

9 (Fraudulent Acts)

10 41. Respondents Estate Termite, Beavers, and Romeo Terrones are subject to disciplinary
11 action under section 8642, in that they made fraudulent representations to the Board when they
12 represented that they completed WDO activities that did not in fact take place as represented. The
13 circumstances are as follows. Complainant refers to, and by reference incorporates, the allegations
14 set forth above in paragraphs 32-35 as though set forth fully.

15 a. Respondents represented that they completed 9 WDO activities on June 17,
16 2013. Given the time needed for inspection and travel necessary to complete the jobs, the
17 activities purportedly undertaken could not have been performed in less than 15 hours.

18 b. Respondents represented that they completed 12 WDO activities on June 26,
19 2013. Given the time needed for inspection and travel necessary to complete the jobs, the
20 activities purportedly undertaken could not have been performed in less than 41 hours.

21 SEVENTH CAUSE FOR DISCIPLINE

22 (Aiding and Abetting Unlicensed Practice)

23 42. Respondents Estate Termite, Beavers, Espinoza, and Romeo Terrones are subject to
24 disciplinary action under section 8639, in that they aided and abetted unlicensed individual(s) to
25 evade provisions of the Structural Pest Control Act. The circumstances are that on or around
26 November 13, 2013, Respondent Espinoza contacted the Board and advised that Respondent
27 Romeo Terrones has at least three unlicensed individuals performing inspections and that they
28 were using both his signature stamp as well as that of Respondent Terrones on the inspection

1 reports and chemical applications they perform. He further identified the unlicensed individuals as
2 "Eddie Mendez", "Jerry Godinez", and "Cesar" and advised that it was in fact Cesar, later
3 identified as Cesar Acosta, who performed the Granada Hills inspection on June 26, 2013.
4 Complainant refers to, and by reference incorporates, the allegations set forth above in paragraphs
5 32-35 as though set forth fully.

6 EIGHTH CAUSE FOR DISCIPLINE

7 (Failure to Complete for Project Price)

8 43. Respondents Estate Termite, Beavers, and Espinoza, are subject to disciplinary action
9 under section 8638, in that on the Granada Hills transaction, they failed to properly complete the
10 project for the price stated in the contract. Complainant refers to, and by reference incorporates,
11 the allegations set forth above in paragraphs 32-35 as though set forth fully.

12 NINTH CAUSE FOR DISCIPLINE

13 (Fraudulent Inspection Reports)

14 44. Respondents Estate Termite, Espinoza, and Romeo Terrones are subject to
15 disciplinary action under section 8641, in that they furnished reports of inspection for the following
16 properties without making a bona fide inspection of the property. Complainant refers to, and by
17 reference incorporates, the allegations set forth above in paragraphs 32-35 as though set forth
18 fully.

19 a. August 29, 2013 – 15835 Camino Real, Moreno Valley.

20 b. September 24, 2013 – 6759 Greenbriar Court, Chino.

21 TENTH CAUSE FOR DISCIPLINE

22 (Fraudulent Acts)

23 45. Respondents Estate Termite, Espinoza, and Romeo Terrones are subject to
24 disciplinary action under section 8642, in that they made fraudulent representations to the Board
25 when they represented that they completed Wood Destroying Organisms (WDO) activities that did
26 not in fact take place as represented. The circumstances are as follows. Complainant refers to, and
27 by reference incorporates, the allegations set forth above in paragraphs 32-35 as though set forth
28 fully.

1 a. Respondents represented that they completed 10 WDO activities on January 10,
2 2013. Given the time needed for inspection and travel necessary to complete the jobs, the
3 activities purportedly undertaken could not have been performed in less than 17.5 hours.

4 b. Respondents represented that they completed 14 WDO activities on February 8,
5 2013. Given the time needed for inspection and travel necessary to complete the jobs, the
6 activities purportedly undertaken could not have been performed in less than 24 hours.

7 ELEVENTH CAUSE FOR DISCIPLINE

8 (Failure to Report WDO Activities)

9 46. Respondents Estate Termite and Espinoza are subject to disciplinary action under
10 sections 8516, subdivision (b) and 8518, in conjunction with California Code of Regulations, title
11 16, section 1996.3, in that they failed to file Wood Destroying Organisms (WDO) reports for
12 activities that occurred on November 7, 2013 and December 8, 2013. Complainant refers to, and
13 by reference incorporates, the allegations set forth above in paragraphs 32-35 as though set forth
14 fully.

15 TWELFTH CAUSE FOR DISCIPLINE

16 (Improper Inspection Reports)

17 47. Respondents Estate Termite and Espinoza are subject to disciplinary action under
18 section 8641, in that with regards to the Granada Hills property, they submitted inspection reports
19 dated October 2, 2013 and November 7, 2013 that failed to make proper findings and
20 recommendations regarding decay fungi damage in violation of Business and Professions Code
21 section 8516, subdivisions (b)(6), (b)(7), and (b)(10) and California Code of Regulations, title 16,
22 sections 1990(e) and 1991(a)(5). Complainant refers to, and by reference incorporates, the
23 allegations set forth above in paragraphs 32-35 as though set forth fully.

24 THIRTEENTH CAUSE FOR DISCIPLINE

25 (Solicitation of Work Without Proper Licensure)

26 48. Respondents Estate Termite and Espinoza are subject to disciplinary action under
27 section 8651 in that on or around October 31, 2013, Respondents solicited to perform fumigation
28 services when in fact, Respondent Estate Termite is not registered to perform fumigations.

1 Complainant refers to, and by reference incorporates, the allegations set forth above in paragraphs
2 32-35 as though set forth fully.

3 FOURTEENTH CAUSE FOR DISCIPLINE

4 (Gross Negligence)

5 49. Respondent Espinoza is subject to disciplinary action under section 8642 in that on the
6 Granada Hills transaction, during preparation of the October 2, 2013 inspection report, he
7 committed acts of gross negligence for the reasons described in paragraph 27, subdivisions (a), (d),
8 (e), (f), (g), (j), and (m). Complainant refers to, and by reference incorporates, the allegations set
9 forth above in paragraphs 32-35 as though set forth fully.

10 FIFTEENTH CAUSE FOR DISCIPLINE

11 (Fraudulent Acts)

12 50. Respondents Estate Termite, Angelo Terrones, and Romeo Terrones are subject to
13 disciplinary action under section 8642, in that they made fraudulent representations to the Board
14 when they represented that they completed WDO activities that did not in fact take place as
15 represented. The circumstances are as follows:

16 a. Respondents represented that they completed 10 WDO activities on August 20,
17 2012. Given the time needed for inspection and travel necessary to complete the jobs, the
18 activities purportedly undertaken could not have been performed in less than 16 hours.

19 b. Respondents represented that they completed 10 WDO activities on September
20 17, 2012. Given the time needed for inspection and travel necessary to complete the jobs, the
21 activities purportedly undertaken could not have been performed in less than 17 hours.

22 DISCIPLINE CONSIDERATIONS

23 51. To determine the degree of discipline, if any, to be imposed on Respondent Andre L.
24 Beavers, Complainant alleges that on or about September 2, 2004, Accusation No. 2005-8 was
25 filed against Andre L. Beavers alleging violations of the Structural Pest Control Act. Following a
26 decision and order effective May 11, 2005, Respondent Beavers' Operator's License was revoked,
27 stayed, and placed on three years probation subject to terms and conditions. The Accusation and
28 decision is hereby incorporated by reference as if fully set forth.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Structural Pest Control Board issue a decision:

4 1. Revoking or suspending Company Registration Certificate Number PR 6260, issued to
5 Estate Termite; Victoria Salas, President;

6 2. Prohibiting Victoria Salas from serving as an officer, director, associate, partner,
7 qualifying manager or responsible managing employee of any registered company during the
8 period that discipline is imposed on Company Registration Certificate Number PR 6260, issued to
9 Estate Termite; Victoria Salas, President;

10 3. Revoking or suspending Operator License Number OPR 12439, issued to Fidel
11 Espinoza;

12 4. Prohibiting Fidel Espinoza from serving as an officer, director, associate, partner,
13 qualifying manager or responsible managing employee of any registered company during the
14 period that discipline is imposed on Operator License No. OPR 12439, issued to Fidel Espinoza;

15 5. Revoking or suspending Operator License Number OPR 12060 and Field
16 Representative License Number FR 39379, issued to Angelo Terrones;

17 6. Prohibiting Angelo Terrones from serving as an officer, director, associate, partner,
18 qualifying manager or responsible managing employee of any registered company during the
19 period that discipline is imposed on Operator License No. OPR 12060 and Field Representative
20 License No. FR 39379, issued to Angelo Terrones;

21 7. Revoking or suspending Field Representative License Number FR 45244, issued to
22 Romeo V. Terrones;

23 8. Prohibiting Romeo V. Terrones from serving as an officer, director, associate, partner,
24 qualifying manager or responsible managing employee of any registered company during the
25 period that discipline is imposed on Field Representative License No. FR 45244, issued to Romeo
26 V. Terrones;

27 9. Revoking or suspending Operator License Number OPR 8916, issued to Andre
28 Beavers;

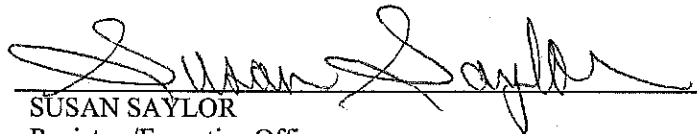
1 10. Prohibiting Andre Beavers from serving as an officer, director, associate, partner,
2 qualifying manager or responsible managing employee of any registered company during the
3 period that discipline is imposed on Operator License No. OPR 8916, issued to Andre Beavers;

4 11. Ordering Victoria Salas, Fidel Espinoza, Romeo V. Terrones, Angelo Terrones and
5 Andre Beavers to pay the Structural Pest Control Board the reasonable costs of the investigation
6 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

7 12. Ordering Victoria Salas, Fidel Espinoza, Romeo V. Terrones, Angelo Terrones and
8 Andre Beavers to pay restitution of all damages according to proof suffered by complainants as a
9 condition of probation in the event probation is ordered; and

10 13. Taking such other and further action as deemed necessary and proper.

11 DATED: 5/8/14



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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